

KENTUCKY BROWNFIELD UPDATE

VOLUME 1, ISSUE 4

SPRING 2007

State Adds New Tools for Brownfield Redevelopment



While a dedicated funding source for brownfield redevelopment is still a hope for the future, there have been a few new developments in terms of brownfield funding. During the past legislative session the commonwealth managed to add a few new and improved tools that are applicable to brownfield redevelopment.

Senate Bill 82 helped sharpen the saw, so to speak, of an existing funding source. Tax incentives were available to entities that undertook a property cleanup under the VERP process. VERP is fairly cumbersome, so very few people had taken advantage of the incentives that were meant to encourage redevelopment. Senate Bill 82 opened up the incentives to other cabinet-approved cleanups of qualified properties. A qualified property means that the cabinet has made the determination that:

- All releases of hazardous substances, pollutants, contaminants, petroleum or petroleum products on the property occurred prior to the property owner's acquisition of the property.
- The property owner made all appropriate inquiries into previous ownership and uses of the property in accordance with generally accepted practices.
- The property owner or a responsible party have provided all legally required notices with respect to the contaminants found at the property.
- The property owner is in compliance with all land use restrictions and does not impede the effectiveness or integrity of any institutional control.
- The property owner complied with any information request or administrative subpoena under KRS 224.
- The property owner is not affiliated with any person who is potentially liable for the release of the contamination through direct or indirect family relation, any contractual or corporate, or financial relationship, or reorganization of a business that was potentially liable.

For qualified parties, the state and local property tax rates on a remediated property are reduced. For three years following the cleanup, the property will not be subject to local ad valorem property taxes. The state ad valorem property tax rate will be reduced from 31.5 cents per \$100 of assessed value

The Kentucky Brownfield Program

Recycling the Commonwealth



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UPCOMING EVENTS

Brownfields-New Market Opportunities for Lenders- Louisville, Ky., May 16, 2007- *See Page 6 for details*

Nuts and Bolts of Brownfield Redevelopment- Indianapolis, Ind., July 23-27, 2007

Brownfield Funding and Grant Writing Course- To be held at several locations across the state- September 2007- specific dates and locations TBA.

Sustainable Redevelopment in the Ohio River Valley-Louisville, Ky., October 1-3, 2007- *See Page 7 for details*

NBA Brownfield Conference and Deal Flow Exhibit, Chicago, Ill., Oct. 15-17, 2007

Brownfields 2008- Detroit Cobo Center, Detroit, Mich., May 5-7, 2008

For more information on any of these events please call the Kentucky Brownfield Program at (800)926-8111 or check out our Web site at:
www.dca.ky.gov/brownfields



to 1.5 cents per \$100 of assessed value.

Qualified parties can also receive up to \$150,000 worth of income tax credits for expenditures made in order to meet the requirements of the cabinet-approved cleanup. The allowable credit for any taxable year is a maximum of 25 percent of the credit authorized. The credit may be carried forward for 10 successive years.

House Bill 549 unveiled another useful tool for brownfields. Tax increment financing (TIF) uses future gains in taxes to finance the current improvement projects that will create those gains. When a project such as a road, a school or hazardous waste cleanup is carried out, there is an increase in value of the surrounding real estate. These improvements often spark new investment in the area as well. This creates more taxable property, thus more tax revenues. Those added revenues are dedicated to finance debt issued to pay for the project. TIF creates funding for distressed areas where redevelopment might otherwise not occur and funding for projects that are unaffordable for municipalities.

Development areas can be created in blighted, distressed areas if they meet two or more of the following criteria:

- Substantial loss of residential, commercial or industrial activity or use.
- Forty percent or more of the households are low-income households.
- More than 50 percent of the residential, commercial or industrial structures are deteriorating or have deteriorated.
- Substantial abandonment of residential, commercial or industrial structures.
- Substantial presence of environmentally contaminated land.
- Inadequate public improvements or substantial deterioration in public infrastructure.
- Any combination of factors that substantially impairs or arrests the growth and economic development of the city or county; impedes the provision of adequate housing; impedes the development of commercial or industrial property or adversely affects the public health, safety or general welfare due to the development area's present condition and use.



There are several other requirements regarding the establishment of a development area and participation in the TIF program. TIF projects will be approved and administered through the Finance and Administration Cabinet by the newly created State Tax Increment Financing Commission.

In addition to these new tools, the Kentucky Brownfield program can perform free environmental assessments, which include a Phase I, Phase II, cleanup plan and estimate of costs, free of charge to municipalities, nonprofits and quasi governmental agencies. These assessments can help determine what environmental issues, if any, are present at a property.

The Kentucky Infrastructure Authority (KIA) administers the Clean Water State Revolving Loan Fund. To be eligible for these funds, the money must be used to address brownfields that have a current or potential impact on surface or groundwater. Visit the KIA Web site at <http://kia.ky.gov> for more information on these low-interest loans.

Other resources may be available for the public sector, the private sector and individual brownfield redevelopers depending on the planned end use of the property. Contact the brownfield program staff to determine if your project may be eligible for other resources. ♻️

Check out Page 4 for a listing of possible brownfield funding sources and redevelopment guidance.





Putting the Pieces Together: Creating Local Incentives for Brownfield Redevelopment

While it is true that both state and federal incentives are paramount in developing a strong culture of brownfield redevelopment, many communities should realize that they too can put together programs that can help attract interested parties. Brownfield redevelopment has begun to boom across the country. Since the U.S. EPA started its pilot projects in the early 1990s, thousands of sites have been rehabilitated and put back into productive use. So what's the secret? One of the keys to fostering this type of redevelopment is to create an environment where it is likely to occur.

One of the first things that a community should do is to appoint one person to be the sole contact for brownfield-related business and development issues. Without a centralized point of contact, an interested party can be shifted from department to department in search of an answer. This leads to frustration and a slowdown for deals. It may also be the kiss of death. So, if possible, appoint someone who can coordinate with all of the pertinent departments, advocate for the project at the local and county levels and coordinate all activities pertaining to the project. If your community is not in the financial position to hire someone just for infill and redevelopment, then appoint someone who can at least get questions answered and help drive the process. For instance, a city manager or an economic or planning representative may be a good choice since they deal with these issues anyway.

A community should talk to federal and state officials who can inform them of programs and funding that can help in the process. Inventory and briefly characterize the properties that are in the community and how these resources can fit into a redevelopment solution. Getting a list together before someone contacts you can help speed up response time and create a strong first impression of your community. It should also be remembered that there is not one magical funding source that will take care of an entire project. Often, state, local and federal incentives must be linked together in order to successfully remediate a property.

Another important facet is having a plan in place. Many communities fail to plan for the future and don't realize the true potential of their city. A community should work to develop a master plan that outlines the city's goals for redevelopment. A city's zoning should also be examined. Perhaps a city has been zoned industrial for a long time, but those types of businesses have not appeared. Consider mixed-use, green and moderate-to-high-density development.

Be open minded if a developer approaches the city about a property. Many times, cities have had bad experiences when dealing with past inhabitants of brownfield sites. It may stem from environmental problems that they caused or a loss of local employment. Whatever ill feeling are lingering, do not treat a potential occupant like the former property owner. Commit to being a collaborative partner in the process.

In the business world, time is money. While you shouldn't abandon rules and regulations regarding the environment or occupancy, realize that the public sector works a lot differently than the private sector. A city may want to establish some sort of streamlined approval process to make the process run smoothly. If you issue a request for proposal (RFP), make sure it has a clear path to ownership that ensures that the developer will have control over the site.

On Page 4 there is a list of resources for brownfield redevelopment. Depending on the end use and history of a building, a brownfield site can be eligible for a wide array of funding sources. If you have further questions regarding what a property may be eligible for, contact the Kentucky Brownfield Program at 800-926-8111. ♻️



Redevelopment Resources

U.S. EPA- The U.S. EPA Brownfield Redevelopment page offers information on a variety of brownfield-related topics such as funding, laws and statutes, and redevelopment tools. <http://www.epa.gov/brownfields/>

Economic Development Administration- EDA administers public works grants and an economic dislocation program that can be used for brownfield rehabilitation. Information on these programs can be found on the EDA's Brownfield Redevelopment page. <http://www.eda.gov/Research/Brownfields.xml>

The Northeast-Midwest Institute- The Northeast-Midwest Institute is involved in brownfield policy development and serves as a source of information regarding brownfields and brownfield redevelopment. <http://nemw.org/brownfields.htm>

National Association of Local Government Environmental Professionals (NALGEP)- NALGEP offers informational sources and a Brownfield Communities Network that seeks to empower localities to revitalize their communities through the exchange of strategies, tools and best practices for brownfield cleanup and reuse. <http://nalgep.org/issues/brownfields/>

Federal Tax Incentives- There are a host of tax incentives that can be linked to brownfield redevelopment. Incentives include rehabilitation tax credits, low income tax credits, new market credits and the Federal Brownfield Cleanup Incentive (a.k.a. brownfield expensing tax credit). This incentive expired on Dec. 31, 2005. However, Congress recently passed a retroactive extension from Jan. 1, 2006, through Dec. 31, 2007. The legislation also expanded the incentive scope allowing the deduction of expenses for the cleanup of petroleum products (crude oil, crude oil condensates and natural gasoline), which had previously been ineligible. Check out the Council of Development Finance Agencies' Web site for more information on tax incentives. <http://www.cdfa.net/cdfa/cdfaweb.nsf/pages/taxcreditsresourcelibrary.html>

National Brownfield Association- The National Brownfield Association (NBA) is a nonprofit organization focused on the responsible redevelopment of brownfields. <http://www.brownfieldassociation.org/>

SMARTe- Sustainable Management Approaches and Revitalization Tools - electronic, is an open-source Web-based, decision support system for developing and evaluating future reuse scenarios for potentially contaminated land. SMARTe contains guidance and analysis tools for all aspects of the revitalization process including planning, environmental, economic and social concerns. <http://www.smarte.org>

EPA Grant Guidance- Each year around early November the U.S. EPA announces that it is accepting applications for brownfield assessment, cleanup and revolving loan fund grants. You can check out the grant guidance at the U.S. EPA's Brownfield Funding Information page. Grant guidance usually doesn't change a great deal from year to year. The Kentucky Brownfield Program encourages you to start writing your brownfield grant early by using the previous year's guidelines. After the new guidance is posted, contact the staff and they can alert you to any changes in the guidance. <http://www.epa.gov/brownfields/applicat.htm#a>

EPA Region 3- If you are writing an EPA Brownfield Grant and you just aren't sure how to answer a question, look to the Region 3 site for brownfield grant proposal excerpts. It contains stock responses to EPA guidance questions that can help you craft your own. <http://www.epa.gov/reg3hwmd/bfs/grants/2004excerpts.htm>

Region 4 Brownfield Grant Writing Web Seminar- In 2006, the EPA Region 4 brownfield staff produced a Web seminar about writing EPA Brownfield Grants. The presentation covered the do's and don'ts of grant writing as well as general information regarding brownfield grants. The seminar has been archived and can be viewed anytime via CLU-IN. The seminar also includes audio. <http://www.clu-in.org/conf/tio/r4bfggrantwriting/resource.cfm>

TAB-EZ AP- Developed by Purdue University, this guide will prompt the user through the basic requirements of the U.S. EPA Brownfield Grant applications. TAB-EZ AP provides the framework for the proposal and prompts the user to fill in the appropriate information. It results in a completed application that can be printed and sent to the EPA. The site also contains helpful hints, useful Web resources and links to regulatory information. TAB-EZ AP is currently set up for the FY 07 grant year and will not be updated until new guidance is announced. If you start your grant writing early, be aware that there may be slight changes in the guidance. Most of the time, these changes are minor. If you are unsure you can contact the Kentucky Brownfield Program staff for more information. <https://engineering.purdue.edu/MHSRC/TABEZAP/v2>



News You Can Use

In this section we highlight funding opportunities as well as upcoming brownfield events. Mark your calendars.

ARC Announces Renewable Energy and Energy Efficiency Grants Competition

The Appalachian Regional Commission (ARC) announced a grants competition this week to assist communities in leveraging renewable energy and energy efficiency resources to revitalize their economies. ARC expects to provide eight to 10 awards of up to \$75,000 each, for a total of \$400,000 in awards, to help communities implement these strategies.

For more information, go to the energy section on ARC's Web site at <http://www.arc.gov>.

Eligible projects should result in the creation of new jobs or businesses in the target communities. Outcomes could include:

- Production and use of renewable energy products, such as biofuels, biomass, solar or wind energy, including siting of these facilities and net metering applications.
- Distribution of renewable energy products, including customer purchasing commitments.
- Expansion or start-up of clean energy businesses, including support for business incubation programs and targeted business financing programs.
- New construction or facilities renovations that follow green building and LEED certified guidelines.

Installation of energy efficiency equipment in public or nonprofit facilities that is 2005 Energy Policy Act Tax Credit eligible, directly results in cost savings, and leads to increased delivery of services to local communities.

This grants program will not provide support for projects that propose to study or plan for future activities. Energy audits will not be supported unless they include implementation of energy efficiency programs.

Nonprofit organizations, governmental entities and public educational institutions located within the ARC region are eligible to apply. Private for-profit organizations are not eligible to apply.

An independent review panel will be convened to evaluate submissions. This panel will include leading energy efficiency and renewable energy organizations, federal, state and local partners. The review panel will forward recommendations to ARC for final approval.

Applications will be evaluated on several criteria, including:

- Feasibility of proposal and likelihood of achieving proposed outcomes.
- Capability of applicant, including expertise in relevant program areas, grants management and community development. Level of community support, including overall level of match and private sector match.
- Articulation of clear, measurable outcomes.
- Sustainability of effort, including ability to continue the activity at the conclusion of grant period.

Additional consideration will be provided for projects focusing on ARC designated distressed counties and areas and for projects involving multistate collaboration.

Deadline for receipt of responses is June 30, 2007. Selections will be announced on July 31, 2007.

For information on submitting an application please go to the energy section of ARC's Web site. The Appalachian Regional Commission will also be holding regional workshops on energy efficiency and renewable energy. Updated information on dates and location of these workshops will be posted to the ARC's Web site at <http://www.arc.gov>.



Brownfields—New Market Opportunities for Lenders Investing for the Future of your Community



Agenda Topics

Why Brownfield Lending Makes Sense

- CERCLA liability and lender exemption
- Statutory "enforcement bar"—bringing certainty to the brownfield process
- "All Appropriate Inquiries" and liability finality for real estate transactions
- Brownfield-related federal tax incentives

Lenders Role in Community Revitalization

- View from a local bank
- View from a local community

Federal Partners

- FDIC
- SBA
- EPA

Public-private Kentucky Brownfield Financing Success Stories

Date and Time

May 16, 2007

9AM–10AM: Registration & Continental Breakfast
10AM–4PM: Workshop

Location

Louisville Branch
Federal Reserve Bank of St. Louis
National City Tower
101 S. Fifth St., Suite 1920
Louisville, KY 40202

To Register

Email your name, address, and affiliation to
BrownfieldLenderWorkshop@icfi.com

Hosts

Louisville Branch
Federal Reserve Bank of St. Louis

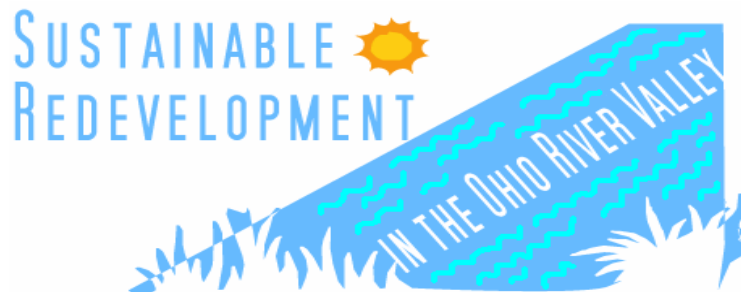
U.S. EPA

Kentucky Department for
Environmental Protection

No charge for registration



SAVE THE DATE – Oct. 1-3, 2007



Louisville, Ky.

Sustainable Redevelopment can lead to long-term benefits to the environment, public health and the quality of life of the surrounding community.

Join us for an exciting three-day conference focused on creating more environmentally, socially and economically vibrant places through redevelopment!* On the afternoon of the first day, you'll tour the greater Louisville and Southern Indiana area and see redevelopment projects first hand. On the second day, hear from nationally recognized speakers about sustainable redevelopment case studies, collaboration for better results and explore the storm water, air quality and public health benefits of sustainable redevelopment. On the third day, participate in a dynamic learning charrette and apply the lessons from the conference to brainstorm ways to sustainably redevelop local sites. The day-three afternoon session will feature methods for overcoming barriers, tools to assist communities and the economics of sustainable development practices. You will also have an opportunity to participate in a Public Health Roundtable on the to-be-released Public Health and Brownfields Community Training Program.

Who Should Attend? Work Force Development Boards, Local Governments, Public Health Agencies, Port Authorities, Developers, Consultants, Community Groups, Architects, Urban Planners, Landscape Architects, Land Trusts, Community Development Organizations, Nonprofit Organizations, Engineers, Ecosystem and Watershed Protection Groups, Water Management and Public Works Organizations, Air Pollution Control Districts and anyone else interested in learning more about innovative ways to improve our environment and communities through redevelopment.

Planning Committee: Agency for Toxic Substances and Disease Registry, Army Corp of Engineers-Louisville, commonwealth of Kentucky, cities of Indianapolis, Jeffersonville, Louisville, Maysville, and New Albany, town of Clarksville, Indiana Department of Environmental Management, Ohio Environmental Protection Agency, Purdue University, Indiana University at Indianapolis, Southeast Neighborhood Development Community Development Corporation, University of Louisville, University of Kentucky and U.S. Environmental Protection Agency (Regions 3, 4, 5 and Headquarters).

Three Action Packed Days of Learning and Networking!

*If you are unable to attend the tour on Oct. 1, you will still be able to register for the conference for Oct. 2 - 3.

Registration and cost details forthcoming in the next few weeks.

